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Patent APPLICATION
09/437,278

AF 3626

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**APPEAL FROM THE EXAMINER TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

RECEIVED

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GROUP 3600

In re Application of: William J. Donovan, et al.
Serial No.: 09/437,278
Filing Date: November 10, 1999
Group No.: 3626
Examiner: Rachel L. Porter
Title: TRAVEL PRICING SYSTEM AND METHOD

MAIL STOP APPEAL BRIEF - PATENTS
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APPEAL BRIEF

Applicants appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner mailed October 22, 2003, finally rejecting Claims 2-4, 7, 8, 10, 11, 14-20 and 24-30 in the above-identified patent application. Applicants filed a Notice of Appeal on February 3, 2004. This Appeal Brief is being filed pursuant to the provisions of 37 C.F.R. § 1.192. Applicants respectfully submit herewith this Appeal Brief, in triplicate, with instructions to charge the statutory filing fee of \$330.00 to Deposit Account No. 05-0765 of Electronic Data Systems Corporation.

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REAL PARTY IN INTEREST

The present application was assigned to Electronic Data Systems Corporation, a Delaware corporation, as indicated by an assignment from the inventors recorded on November 10, 1999 in the Assignment Records of the United States Patent and Trademark Office at Reel 010386, Frame 0898.

RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this pending appeal.

STATUS OF CLAIMS

Claims 2-4, 7, 8, 10, 11, 14-20 and 24-30 stand rejected pursuant to a Final Office Action mailed October 22, 2003. Claims 2-4, 7, 8, 10, 11, 14-20 and 24-30 are all presented for appeal.

STATUS OF RESPONSES

Applicants filed a Response Pursuant to 37 C.F.R. § 1.111 on May 28, 2002 in response to an Office Action dated March 15, 2002 ("First Office Action"). The Examiner finally rejected Claims 1-4, 6-11 and 13-23 in a First Final Office Action dated August 30, 2002 ("First Final Office Action") and Applicants filed a Response Pursuant to 37 C.F.R. § 1.116 on October 29, 2002. In an Advisory Action dated November 21, 2002 ("First Advisory Action"), the Examiner indicated that Applicants' Response would not be entered because it raised new issues that would require further consideration and/or search. Applicants filed a Request for Continued Examination on January 30, 2003. Applicants filed a Response Pursuant to 37 C.F.R. § 1.111 on July 23, 2003 in response to a Second Office Action dated April 23, 2003 ("Second Office Action"). The Examiner finally rejected Claims 2-4, 7, 8, 10, 11, 14-20 and 24-30 in a Second Final Office Action ("Second Final Office Action") dated October 22, 2003 and Applicants filed a Response Pursuant to 37 § 1.116 on December 18, 2003. The Examiner issued an Advisory Action dated January 23, 2004 ("Second Advisory Action") which stated that the Response to Examiner's Final Office Action was being entered for purposes of appeal. A Notice of Appeal was filed on February 3, 2004. Consequently, the claims which are on appeal, and which appear in

Appendix A of this Appeal Brief, represent the form of the claims as of the time the Second Advisory Action which was issued on January 23, 2004.

SUMMARY OF INVENTION

Referring to Figure 2, an information management system 10 comprises general purpose computer 30 coupled to storage medium 60 (which may be a part of computer 30). Information management system 10 may communicate and otherwise transmit and receive information that may be time-sensitive with one or more clients 70 and one or more data providers 80. As described below, information management system 10 may store time-sensitive information in a manner that may reduce delays in making available such information, and may also reduce subsequent processing time.

Computer 30 may comprise one or more processing engines 31, notifiers 33, utilities 35 and application servers 37. Specifically, general purpose computer 30 may comprise a portion of an information management system and may be used to execute applications comprising information management software, including software to store and process travel industry data. Computer 30 may receive and transmit information from one or more internal or external data providers 80 in a variety of data formats and versions. Such information may be received from a data provider 80 from time to time, at predetermined intervals or upon request. Elements 31, 33, 35, and 37 may be configured in any logical or functional structure, and may comprise one or multiple processes, or parts of processes. Each of elements 31, 33, 35, and 37 may also reside on the same or separate computers 30. Depending upon the application, some or all of these elements could be omitted without departing from the scope of the invention.

If information management system 10 receives updates of information from outside sources, then processing engine 31 may receive updates to information from data provider 80 and processes the updates for storage in storage medium 60 for further use by information management system 10. Processing engine 31 may communicate with data provider 80 to request updates, or to inform data provider 80 that it is ready to receive updates. Processing engine 31 may transfer the updates into temporary storage, e.g. in storage medium 60, or to available random access memory (not explicitly shown), to verify accuracy or for safekeeping until processing is complete. Such processing may be performed as updates are received, or from time to time as updates are accumulated, according to the needs of

information management system 10. As described in further detail in conjunction with FIGURE 3, processing engine 31 may index and store the updates received for subsequent use by application server 37. If desired, the information received may be translated to a common format.

Notifier 33 is coupled to processing engine 31 and application server 37, and informs application server 37 of updates. Notifier 33 is discussed in further detail in conjunction with FIGURE 3, and may use any suitable scheme, and may be used with a plurality of application servers 37 to ensure that each application server 37 is synchronized with the most up-to-date information stored in storage medium 60 if the information is changing and/or time-sensitive. Storage medium 60 is accessible by computer 30, processing element 31 and application server 37, and stores updates received and processed by information management system 10. Storage medium 60 may comprise any suitable database, such as a relational database, an object database, or a hierarchical database.

In one embodiment of the invention, information management system 10 may be used to store and process data used in the travel industry for flight, bus, train, hotel, rental car, tour or other reservations and/or fare processing for the same. Information management system 10 is operable to receive information on fares or other travel costs and maintain accurate historical records thereof. Such a travel price information management system 10 may thus provide pricing for any travel itinerary, including airline travel. Information management system 10 may also be operable to make reservations and/or to determine allowable refunds using historical records of pricing information.

In operation, data providers 80 may transfer to information management system 10 updates distributed and published by each service provider as to fares (or other pricing), rules and restrictions. Each update comprises one or more attributes. For example, in the travel industry, an update may comprise a fare record that includes attributes such as a fare class, a fare price, and an effective date. Information management system 10 may receive and process the updates as they become available from data provider 80, or in batch form. One process that may be used to store updates to travel pricing data is described in more detail in figure 3. The process generally includes the steps of receiving information, processing a time stamp, processing new information updates and then indexing and storing the information for efficient access. In other words, the process may enable information management system 10

to reduce the elapsed time between such updates and the availability to client 70 of the updated information.

In the travel industry, updates generally comprise reservation data. Reservation data may include, but is not limited to, information related to and/or necessary to make and/or price reservations for an itinerary. Reservation data may also include, but is not limited to, fare records, rules, restrictions, schedules, etc. Each fare record may be associated with a service provider's price for a fare class, such as first class, between a pair of locations. Information management system 10 may maintain historically accurate records for such fare data in an efficient manner that reduce the amount of storage space and/or computing resources to process updates to the data. Updated fare records typically comprise new attributes such as effective dates, prices, or applicable rules, that may conflict with older attributes of fare records already in storage medium 60.

In addition to the complex manner in which reservation data may be distributed and updated by each carrier, each data provider 80 may utilize and transfer information in a unique format. For example, one data provider 80 may transfer "fare transactions" comprising a fare class code, link number, and a sequence number that identifies pertinent aspects of the record internal to data provider 80. Fare records may also include a version number that indicates a change such as a new data format or new record field that data provider 80 will subsequently use. Each change may be unique to each data provider 80, and each application. Information management system 10 may accommodate these changes to minimize disruptions in updating records of travel reservation data stored in storage medium 60. By capturing the updates with a version number, information management system 10 may monitor these changes while avoiding burdensome conversion thereof, and thus may reduce the time necessary to effectively store the updates. Information management system 10 may subsequently utilize different processing methods for each of these changes. For example, in one embodiment of the invention, an interpretive language such as Prolog may be used to dynamically execute appropriate software code to process a plurality of formats. Thus, application server 37 may include multiple software processes, objects, methods, etc., each associated with a particular format of the data. The correct software to handle particular data may be handled at run time. This feature of the invention allows changes to be made in data formats and the way rules and restrictions are applied with reduced burden on the operator of information management system 10. Rather than changing the entire system to

deal with many ever-changing formats each time a format changes, the invention allows a piece of software to be dynamically inserted at run time to handle the specific format. This feature may also reduce disruptions caused by changes to the system and simplify debugging. Application server 37 may then subsequently search for, access and otherwise process both data formats by using the time stamp to determine the required software. Other implementations for processing multiple formats may also be used without departing from the scope of the invention. In one embodiment of the invention, information management system 10 uses a computer language such as Prolog to process various formats as the software is executed, and may thus reduce the need for laborious data conversion routines used with conventional systems.

STATEMENT OF ISSUES

1. Are Claims 24, 3-4, 29, 14-15, 19-20, 25, 27, and 30 unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 6,125,371 to Bohannon et al ("*Bohannon*") in view of U.S. Patent No. 5,523,166 to Dettelbach et al ("*Dettelbach*")?
2. Is Claim 16 unpatentable under 35 U.S.C. § 103(a) over *Bohannon* and *Dettelbach*, further in view of Official Notice?
3. Are Claims 26, 2, 7, 8, 10, 11, 17, 18 and 28 unpatentable under 35 U.S.C. § 103(a) over *Bohannon* in view of *Dettelbach*, further in view of U.S. Patent No. 6,212,512 to Barney ("*Barney*")?

GROUPING OF CLAIMS

Pursuant to 37 C.F.R. §1.192(c)(7), Applicants state that Claims 2-4, 7, 8, 10, 11, 14-20 and 24-30 do not stand or fall together. Applicants request that Claims 2-4, 7-8, 10-11, 14-20 and 24-30 be grouped as follows for purposes of this appeal:

1. Group 1: Claims 24, 26, 29, 2-4, 7-8, 10-11, 14-20, 25, 28 and 30. (Claim 24 will be addressed below and Claims 26, 29, 2-4, 7-8, 10-11, 14-15, 17-20, 25, 28 and 30 may be deemed to stand or fall with Claim 24).
2. Group 2: Claim 27.

ARGUMENT

Issues 1-3 concern obviousness art rejections maintained by the Examiner. Section A reviews the legal standards to be used by the Examiner in maintaining these rejections. Applicants address issues 1-3 in Sections B-C.

A. Legal Standard – Obviousness

The Examiner maintains that Claims 24, 26, 29, 2-4, 7-8, 10-11, 14-15, 17-20, 25, 27-28 and 30 are obvious largely in view of the *Bohannon-Dettelbach* combination.¹ The determination of whether an invention is obvious in view of prior art considers “if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.” 35 U.S.C. § 103 (Emphasis added). The fact that a prior art device could be modified so as to produce the claimed invention is not a basis for an obviousness rejection unless the prior art suggested the desirability of such a modification. *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. *Carella v. Starlight Archery*, 804 F.2d 135, 231 U.S.P.Q. 644 (Fed. Cir. 1986). In addition, “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.” *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). (M.P.E.P. § 2141.02). Moreover, if a “proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” M.P.E.P. §2143.01.

In approaching this determination, a number of inquiries are made as primary considerations: (1) the scope and content of the prior art are determined; (2) the differences between the prior art and the claims at issue are ascertained; and (3) the level of ordinary skill in the pertinent art is resolved. *Graham v. John Deere Company*, 383 U.S. 1, 16, 148 U.S.P.Q. 459, 467 (1966). It is important that the proper perspective be used in considering

¹ As shown by Issues 2 and 3, the Examiner rejected Claim 16 further in view of Official Notice and Claims 26, 2, 7, 8, 10, 11, 17, 18 and 28 further in view of *Barney*.

the invention in view of the prior art while conducting the obviousness/nonobviousness analysis. It is improper for an Examiner to use hindsight having read the Applicant's disclosure to arrive at an obviousness rejection. *In re Fine*, 837 F.2d 1071, 1075, 5 U.S.P.Q. 2d 1596, 1600 (Fed. Cir. 1988). It is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992).

As required by 37 C.F.R. §1.192(c)(8)(iv), this Appeal Brief will show that each rejected claim is not obvious under §103, in particular by setting forth the specific limitations in each rejected claim which are not described in the prior art relied on for the rejection.

B. Group 1 – Claims 24, 26, 29, 2-4, 7-8, 10-11, 14-20, 25, 28 and 30.

Claim 24 recites a “travel pricing system, comprising ... a data store ... and a server coupled to the data store, the server ... receiving from a service provider a first reservation record relating to a first type of record, the first reservation record comprising travel attributes and a first version number, the travel attributes arranged in a first record format ... associating the first reservation record with a first time stamp ... adding the first reservation record and time stamp to the data store using the first reservation record format ... receiving from the service provider a second reservation record relating to the first type of record, the second reservation record comprising at least a portion of the travel attributes associated with the first reservation record and a second version number different from the first version number, the travel attributes arranged in a second record format different from the first record format ... associating the second reservation record with a second time stamp ... and adding the second reservation record and time stamp to the data store using the second reservation record format.”

Applicants respectfully assert that *Bohannon* and *Dettelbach*, whether alone or in combination, fail to teach various aspects of Claim 24. First, *Bohannon* fails to teach receiving a first record and a second record related to the first record. Second, *Dettelbach* does not make-up for these deficiencies. Indeed, *Dettelbach* is an improper reference because it explicitly teaches away from many limitations in Claim 24. For any of these reasons, Applicants respectfully request withdrawal of the present rejections and allowance of Group 1.

1. *Bohannon* fails to teach “receiving from the service provider a second reservation record relating to the first type of record” and “adding the second reservation record and time stamp to the data store using the second reservation record format”

Bohannon fails to teach “receiving ... a second reservation record” related to the first record because *Bohannon* involves updating an internally created copy of an already existing record. *Bohannon* provides a system that receives an update transaction to a record, locks the record to be updated, creates a copy of the record to be updated, and updates the copy based on the update transaction. See *Bohannon*, Abstract; *id.* at FIGURE 1; *id.* at 4:58-5:19. *Bohannon*’s teaching are apparently undisputed by the Examiner. For example, in the Second Advisory Action, the Examiner “understands the update transaction described in *Bohannon* to mean that when an update transaction is desired, *the system archives a version of the file* before modifications are made to make this file the most recent past version and then *makes the modified copy of the file the new current version of the same.*” Second Advisory Action, p. 2 (emphasis added) (internal citations omitted). In other words, the system in *Bohannon* is updating a copy of an already existing record based on a received update transaction.

It is unclear whether the Examiner equates the update transaction or the copy of the already existing record with a received and stored “second reservation record” as recited in Claim 24. See Second Final Office Action, p. 3. For example, the Examiner cites various portions of *Bohannon* for allegedly teaching each element of Claim 24. But the cited portions of *Bohannon* teach that the update transaction is received and the copy of the existing record is internally created and stored. Regardless, neither the update transaction nor the copy of the record in *Bohannon* can properly be considered a “second reservation record” as recited in Claim 24.

First, *Bohannon* discloses that the update transaction is a DBMS command to modify a data record. This database command can not be equated with a received (and stored) second reservation record because i) it is not a record; and ii) it is not stored. More specifically, the update transaction is merely “a transaction that ‘updates’ data records or, *more broadly, wants access to a current version of a particular data record.*” *Bohannon*, 4:12-14 (emphasis added). *Bohannon* then discloses that “[w]hen an update transaction, T, is executed, it most often *updates a given data record* – a ‘current’ version of the data record is

archived, becoming a most recent ‘past’ version thereof, and the newly updated version becomes the new ‘current’ (or successor) version of the same.” *Id.*, 4:14-19 (emphasis added). Indeed, *Bohannon* teaches that “[i]f the transaction is an update transaction, ... then versioning controller 115 (1) obtains a ‘X’ lock on one or more data records to be modified.” *Id.*, 5:7-10 (emphasis added). In short, *Bohannon* teaches that the update transaction is a transaction that locks, accesses, and updates the copy of the existing record – it is clearly not a second record within the scope of Claim 24.

Nor can the copy of the existing record in *Bohannon* be properly equated with a received “second reservation record relating to the first type of record” as recited, in part, in Claim 24 because the copy is internally created – it is not received. *Bohannon* teaches that the copy of the current record is created by the system and is not received “from the service provider” as recited, in part, in Claim 24. *See Bohannon*, 4:15-19; *id.* 5:9-18; *see also* Second Advisory Action, pg. 2. The Examiner curiously claims that *Bohannon* “receives ... and maintains different versions of records with different timestamps (i.e. a first record and a second record relating to the first type of record.)” *Id.* But the Examiner fails to cite any portion of *Bohannon* supporting such a receipt of the copy of the record. Indeed, as detailed above and acknowledged by the Examiner, *Bohannon* specifically teaches a system for updating an internally-created copy. Therefore, in *Bohannon*, there is simply is no disclosure, teaching or suggestion that the copy is received. In short, if the Examiner is equating the copy of the existing record with the received “second record,” *Bohannon* is (by the Examiner’s admission) internally creating the alleged “second record” – nowhere does *Bohannon* teach, suggest, or disclose that the copy of the existing record is received.

Accordingly, *Bohannon* fails to disclose, teach, or suggest at least “receiving from the service provider a second reservation record relating to the first type of record, the second reservation record comprising at least a portion of the travel attributes associated with the first reservation record ... the travel attributes arranged in a second record format different from the first record format” and “adding the second reservation record and time stamp to the data store using the second reservation record format” as recited, in part, in Claim 24.

2. Dettelbach fails to account for Bohannon’s deficiencies because it teaches one common format for each record type

Dettelbach fails to teach receiving a second record of the same type as a first record in a format different from the first record. Specifically, Claim 24 recites “receiving a first

reservation record relating to a first type of record, ... the travel attributes arranged in a first record format ... receiving a second reservation record relating to the first type of record, ... the travel attributes arranged in a second record format different from the first record format.”

In contrast, *Dettelbach* teaches a plurality of record types, but with each record type in a set format (or layout). First, *Dettelbach* discloses a plurality of record types including Begin Reservation (record type “B”), End Reservation (record type “E”), Customer Data (record type “P”), Air Travel Reservation Data (record type “A”), Transportation Rental Data (record type “T”), Hotel Booking Data (record type “D”), Travel Data Code (record type “D”), and Departure Authorization (record type “Z”). See *Dettelbach*, 6:8-14; *id.* 4:61-6:7; see also *id.*, FIGURES 3, 4. The Examiner claims that *Dettelbach* teaches “information from a single service provider ... contains a plurality of reservation file types (e.g. customer data, hotel, air, car, departure authorization) with travel attributes arranged in different formats.” Second Final Office Action, p. 4. The Examiner then submits that “the *Dettelbach* reference demonstrates that the format of the customer data ... is distinct from the travel data code format.” *Id.* But *Dettelbach* explicitly states that the customer data record (record type “P”) and the travel data code record (record type “D”) are different record types, as used in *Dettelbach*. In other words, while correct, the Examiner’s submission is irrelevant because it fails to address receiving and storing two records of the same type in two different formats.

More specifically, the cited portion of *Dettelbach* specifies one format for each record type in direct contrast to receiving and storing two records of the same type in two different formats. See *Dettelbach*, 4:60-6:15. For example, *Dettelbach* first details that each reservation is “bracketed by a Record Header and Record Trailer,” *Id.*, 4:40-41, and includes “records delineating the customer data, department authorization, and air, hotel, and automobile reservations” *Id.*, 4:45-47. *Dettelbach* then, without disclaimer or modifier, explicitly defines the only record format for each of the aforementioned record types. See *id.*, 4:60-6:15. In short, if *Dettelbach* receives two records of the same record type, then both records will in the same format. Accordingly, *Dettelbach* does not teach “receiving a first reservation record relating to a first type of record, ... the travel attributes arranged in a first record format ... receiving a second reservation record relating to the first type of record, ... the travel attributes arranged in a second record format different from the first record format” as recited, in part, by independent Claim 24.

3. *Dettelbach* is an improper reference because it explicitly teaches away from various aspects of Claim 24

Dettelbach specifically teaches away from “adding the first reservation record and time stamp to the data store using the first reservation record format ... and adding the second reservation record and time stamp to the data store using the second reservation record format” as recited in Claim 24. Applicants respectfully submit that there is no teaching within *Dettelbach* that data storage capabilities extend beyond the scope of a single format and certainly no teaching that such storage capabilities are available for “different formats,” as suggested by the Examiner. First, the Examiner twice admitted that, in *Dettelbach*, “[t]he new reservation data is then conditioned and is converted to the same output format as the historical reservation files maintained in the system’s database.” First Final Office Action, p. 6 (emphasis added); *see also* First Office Action, p. 6. The Examiner has further acknowledged that “it is unclear from the *Dettelbach* reference whether the system also accommodates files of different formats in the same data store.” First Final Office Action, page 6. On the contrary, *Dettelbach* specifically teaches away from this concept and a “prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.” *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984); M.P.E.P. § 2141.02.

Dettelbach explicitly teaches conversion of incoming data into the same file format including one common record format for each record type. *Dettelbach* teaches that

[t]he ultimate output from the serial interface control B is the ‘.RAW’ file 12, converted into ACSII delimited format as a transfer file 20, arranged for use by the relational database control C. The conditioned output file becomes the transfer file 20 and is assigned a ‘.XFR’ extension. All characters and character strings in the transfer file 20 are delimited by quotes. All fields are separated by commas. Each reservation retrieved from the queue file Q99 is bracketed by a Record Header and Record Trailer... [A]ll items listed [in FIGURE 4] are extracted from the raw data file shown in FIGURE 3. All information in the Transfer File (.XFR) is ASCII character data... This facilitates the selective arrangements of the items within the memory as shown.

Dettelbach, c. 4, ll. 32-56 (emphasis added). The persistent use by *Dettelbach* of the word “all” and “each” necessarily limits *Dettelbach* to a single file format and a single record

format for each record type and runs counter to expanding the teachings of *Dettelbach* to include different formats through a combination with *Bohannon* or any other reference.

Further, *Dettelbach* teaches that this common record format is needed for users to access the stored data. More specifically, “[g]uidelines for customizing [off-the-shelf Database programs] according to the preferred embodiment are detailed below and in the accompanying Appendices wherein *Appendix I illustrates the Table structure in the preferred embodiment... Once organized in a manner corresponding to preferred embodiment methods*, corporate accountants may easily retrieve *pre-formatted* and manageable account information.” *Dettelbach*, c. 6, ll. 42-55 (emphasis added); *see also id.*, c. 6, ll. 39-42. In short, *Dettelbach* requires converting, formatting, or arranging the incoming records into a common format so that corporate customers easily retrieve the records in a known format. *Dettelbach* can not “accommodate files of different formats in the same data store” as frequently alleged by the Examiner.

Moreover, the fundamental principle of *Dettelbach* is retrieving “pre-travel” data from multiple sources and converting, or logically arranging, the retrieved data into a single format “suitable for input by the single common relational database control.” *Dettelbach*, 2:22-23. The single common relational database control is necessary in *Dettelbach* to organize “pre-travel data for comparison use by corporate clients.” *Dettelbach*, 1:9-11 (emphasis added). The Examiner essentially reasons that the record storage process of *Bohannon* can replace the conversion process of *Dettelbach*. *See, e.g.*, Office Action, p. 6. But as *Dettelbach* is limited to “organizing the pre-travel data for efficient use by a corporate client” (*Dettelbach*, abstract), it is incapable of being used in a system for “adding the first reservation record and time stamp to the data store using the first reservation record format ... and adding the second reservation record and time stamp to the data store using the second reservation record format” as recited, in part, by Claim 24. As described above, *Dettelbach* is “specifically applicable to retrieving and organizing pre-travel data for comparison use by corporate clients.” *Dettelbach*, 1:9-11 (emphasis added). Including *Dettelbach* in “a system in which a central file repository receives, stores, and process data files with different formats” (First Office Action, p. 6), defeats any “comparison use by corporate clients” as required by *Dettelbach*.

Nor can *Dettelbach* include “other possible embodiments that have alternate configurations” to store related records in different formats. First Advisory Action, p. 3-4; *see*

First Final Office Action, p. 6. For support, the Examiner has claimed that M.P.E.P. § 2123 provides that “a reference may be relied upon for all that it reasonably would have suggested to one having ordinary skill in the art, including non-preferred embodiments.” First Advisory Action, p. 3 (emphasis in original). But Applicants assert that *Dettelbach* simply provides no “alternative configurations.” Applicants have repeatedly requested the Examiner to provide evidence or disclosure of any alternative embodiments in *Dettelbach* that provide for “files of different formats in the same data store” as alleged by the Examiner. Without such a showing, the Examiner has done nothing more than engage in impermissible hindsight reconstruction and, therefore, has no foundation to rely upon any embodiment other than the embodiment disclosed in *Dettelbach* that requires conversion and therefore teaches away from Claim 24. For at least these reasons, Applicants respectfully submit that the combination of *Dettelbach* and *Bohannon* is improper because *Dettelbach* teaches away from “adding the first reservation record and time stamp to the data store using the first reservation record format ... and adding the second reservation record and time stamp to the data store using the second reservation record format” as recited, in part, by Claim 24.

The Examiner has also argued that “there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves.” First Advisory Action, p. 5 (emphasis in original). Applicants respectfully counter that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the references suggest the desirability of the combination. *See In re Mills*, 916 F.2d 680 (Fed. Cir. 1990); M.P.E.P. § 2143.01. This is especially true in light of the fact that *Dettelbach* specifically teaches away from Applicants’ claims. Indeed, nothing in *Dettelbach*, *Bohannon*, or any other cited reference suggests or motivates the proposed combination, nor has the Examiner provided specific evidence that suggests or motivates the proposed combination beyond the single ambiguous advantage. Applicants respectfully note that speculation in hindsight that “it would have been obvious” to make the proposed combination because the proposed combination might be helpful is insufficient under the M.P.E.P.² and governing Federal Circuit case law.³

² See M.P.E.P. § 2145 (“The Federal Circuit has produced a number of decisions overturning obviousness rejections due to a lack of suggestion in the prior art of the desirability of combining references”).

³ For example, in *In re Dembiczak*, 175 F.3d 994 (Fed. Cir. 1999), the Federal Circuit reversed a finding of obviousness by the Board of Patent Appeals and Interferences, explaining that evidence of a suggestion, teaching, or motivation to combine is essential to avoid impermissible hindsight reconstruction of an applicant’s invention:

4. The *Bohannon-Dettelbach* combination is improper and fails to teach various limitations of Claim 24

For at least these reasons, Applicants assert that i) *Bohannon* fails to teach receiving a second record of the same type as a first record; ii) *Dettelbach* fails to teach receiving such a second record in a format different from the first record; and iii) *Dettelbach* teaches away from storing two differently formatted records of the same type. Accordingly, Applicants assert that *Bohannon* fails to teach various limitations of Claim 24. Moreover, *Dettelbach* is an improper reference because it not only fails to show what the Examiner alleges but it leads away from the claimed invention. For at least these reasons, the *Bohannon-Dettelbach* combination, even if proper, fails to teach many aspects of Claim 24. The other cited references fail to account for at least these deficiencies of the *Bohannon-Dettelbach* combination.

C. Group 2 – Claim 27.

Claim 27 recites “the server further ... receiving a first rule data relating to the city pair ... adding the first rule data to the data store ... receiving a second rule data relating to the city pair ... and adding the second rule data to the data store without modifying the first rule data.” The Examiner agrees that *Bohannon* fails to disclose, teach, or suggest the claimed invention, but asserts that “these differences are only found in the non-functional descriptive material.” Second Final Office Action, p. 4. Applicants respectfully traverse such an assertion and counter that Claim 27 is a method claim positively reciting a number of functions to be performed with rule data. For example, the recitation of “adding the second rule data to the data store without modifying the first rule data” in Claim 27 clearly amounts

Our case law makes clear that the best defense against the subtle but powerful attraction of hind-sight obviousness analysis is *rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references*. Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight.

175 F.3d at 999 (quoting *W.L. Gore & Assoc., Inv. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983)) (emphasis added) (citations omitted). See also *In Re Jones*, 958 F.2d 347 (“Conspicuously missing from this record is any evidence, other than the PTO’s speculation (if that can be called evidence) that one of ordinary skill in the herbicidal art would have been motivated to make the modification of the prior art salts necessary to arrive at [the claimed invention]”).

to more than “non-functional descriptive material.” Regardless, as described above, *Bohannon* fails to teach receiving a second record related to the first or “receiving a first rule data relating to the city pair ... receiving a second rule data relating to the city pair” as recited in Claim 27. Accordingly, the Office Action’s rejection of Claim 27 is improper. For at least this reason, Applicants respectfully request withdrawal of the present rejection and allowance of Group 2.

CONCLUSION

Applicants have clearly demonstrated that the present invention as claimed is clearly distinguishable over all the art cited of record, either alone or in combination, and satisfies all requirements under 35 U.S.C. § 103. Therefore, Applicants respectfully request the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

The Commissioner is hereby authorized to charge the Appeal Brief filing fee of \$330.00 to Deposit Account No. 05-0765 of Electronic Data Systems Corporation. Although no other fees are believed to be due, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 05-0765 of Electronic Data Systems Corporation.

Respectfully submitted,

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Appendix A – Claims on Appeal

2. The system of claim 24, wherein the first reservation record and the second reservation record are added to the data store by appendage into a flat file.

3. The system of claim 24, wherein the second reservation record comprises travel reservation data associated with a city pair.

4. The system of claim 24, wherein the second reservation record is added to the data store by using the time stamp as a key into a database.

7. The travel pricing system of claim 26, wherein the fare data comprises a fare associated with the service provider.

8. The travel pricing system of claim 7, wherein the data store comprises files indexed by city pair.

10. The travel pricing system of claim 26, wherein the data store comprises data files indexed by city pair and by carrier.

11. The travel pricing system of claim 26, wherein the time stamp comprises an activation stamp that indicates when the server can initially use the second reservation record.

14. The method of claim 29, wherein the first reservation record and the second reservation record each comprise travel reservation data associated with a city pair.

15. The method of claim 29, wherein the second reservation record is added to the data store by using the time stamp as a key into a database.

16. The method of claim 29, further comprising dynamically processing the format of the first reservation record that differs from the format of the second reservation record utilizing Prolog.

17. The method of claim 29, wherein the first reservation record and the second reservation record are added into the data store by appendage into a flat file chronologically using the time stamp.

18. The method of claim 29, further comprising synchronizing the second reservation record with an additional server.

19. The method of claim 29, wherein the data store comprises files indexed by city pair.

20. The method of claim 29, wherein the attributes comprise one selected from the group consisting of fares associated with the service provider, rules associated with the service provider, and restrictions associated with the service provider.

24. A travel pricing system, comprising:

a data store; and

a server coupled to the data store, the server:

receiving from a service provider a first reservation record relating to a first type of record, the first reservation record comprising travel attributes and a first version number, the travel attributes arranged in a first record format;

associating the first reservation record with a first time stamp;

adding the first reservation record and time stamp to the data store using the first reservation record format;

receiving from the service provider a second reservation record relating to the first type of record, the second reservation record comprising at least a portion of the travel attributes associated with the first reservation record and a second version number different from the first version number, the travel attributes arranged in a second record format different from the first record format;

associating the second reservation record with a second time stamp; and

adding the second reservation record and time stamp to the data store using the second reservation record format.

25. The system of Claim 24, the server further:

- receiving a third reservation record relating to a second type of record, the third reservation record comprising travel attributes and the first version number, the travel attributes arranged in a third record format;
- associating the third reservation record with a third time stamp; and
- adding the third reservation record and time stamp to the data store using the third reservation record format.

26. A travel pricing system, comprising:

- a data store; and
- a server coupled to the data store, the server:
 - receiving from a service provider a first reservation record relating to a first type of record, the first reservation record comprising travel attributes and a first version number, the travel attributes comprising old fare data associated with a city pair and arranged in a first record format;
 - associating the first reservation record with a first time stamp;
 - adding the first reservation record and time stamp to the data store using the first reservation record format;
 - receiving from the service provider a second reservation record relating to the first type of record, the second reservation record comprising at least a portion of the travel attributes associated with the first reservation record and a second version number different from the first version number, the travel attributes of the second reservation record comprising new fare data associated with the city pair and arranged in a second record format different from the first record format;
 - associating the second reservation record with a second time stamp; and
 - adding the second reservation record and time stamp to the data store using the second reservation record format, wherein the first reservation record and the second reservation record are added to the data store by appendage into a flat file chronologically using the time stamp.

27. The system of Claim 8, the server further:
receiving a first rule data relating to the city pair;
adding the first rule data to the data store;
receiving a second rule data relating to the city pair; and
adding the second rule data to the data store without modifying the first rule data.

28. The system of Claim 26, the server further:
receiving a third reservation record relating to a second type of record, the third reservation record comprising travel attributes and the first version number, the travel attributes comprising old fare data associated with a second city pair and arranged in a third record format;
associating the third reservation record with a third time stamp; and
adding the third reservation record and time stamp to the data store using the third reservation record format.

29. A method for organizing travel reservation data, comprising:
receiving from a service provider a first reservation record relating to a first type of record, the first reservation record comprising travel attributes and a first version number, the travel attributes arranged in a first record format;
associating the first reservation record with a first time stamp;
adding the first reservation record and time stamp to a data store using the first reservation record format;
receiving from the service provider a second reservation record relating to the first type of record, the second reservation record comprising at least a portion of the travel attributes associated with the first reservation record and a second version number different from the first version number, the travel attributes arranged in a second record format different from the first record format;
associating the second reservation record with a second time stamp; and
adding the second reservation record and time stamp to the data store using the second reservation record format.

30. The method of Claim 29 further comprising:
- receiving a third reservation record relating to a second type of record, the third reservation record comprising travel attributes and the first version number, the travel attributes arranged in a third record format;
 - associating the third reservation record with a third time stamp; and
 - adding the third reservation record and time stamp to the data store using the third reservation record format.